

WATER COUNCIL MEETING

Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

June 9, 2004
9:00 a.m.

Members present: Councilors Bridges, Bradley, Butler, Cowan, Densberger, Funk, Glines, Ingham, McLeod, Patenaude, Phillips, and Varotsis

Members absent: Councilor DiMarzio; Councilor Flynn or his designee, David Barrett; Councilor Manoogian or her designee, Ben Frost; and Councilor Stephen or his designee, Brook Dupee.

Chairman Bridges opened the meeting at 9:00 a.m.

1. Approval of Minutes of April 14, 2004 Meeting

A motion was made by Councilor Bradley to accept the minutes of the April 14, 2004 meeting as presented. The motion was seconded by Councilor Funk and unanimously voted.

2. Approval of State Aid Grants

Steve Snell of the Wastewater Engineering Bureau requested approval of one state aid grant as set forth in a memo from Bureau Administrator John R. Bush to Harry T. Stewart dated May 27, 2004.

Councilor Varotsis moved to approve the grant and recommend favorable action by the Governor and Executive Council by adoption of the following resolution in its entirety. Councilor Densberger seconded the motion and it was unanimously voted.

WHEREAS, The following municipality has applied to the Department of Environmental Services, under the provisions of RSA 486, for a grant in the amount listed to aid in the defraying of the costs resulting from the construction of a sewage disposal facility, as defined in said Chapter:

<u>MUNICIPALITY</u>	<u>PROJ. NO.</u>	<u>PROJECT DESCRIPTION</u>	<u>AMOUNT</u>
Goffstown	C-674	Knollcrest Road Area Sewers	\$ 188,180

WHEREAS, The Department of Environmental Services has examined said application as to the eligibility of the construction costs for State contributions; and

WHEREAS, The Water Council finds that said project is intended to control or reduce pollution in the surface waters of the State as defined in RSA 485-A;

NOW THEREFORE, The Water Council finds that all of the provisions of RSA 486 have been met by said applicant, and respectfully recommends that the Governor and Executive Council approve said grant and authorize payment thereof through the Department of Environmental Services as provided for in said Chapter.

3. **Appeals Update**

Michael Sclafani reviewed pending appeals with the Council.

- **Docket No. 03-10 WC - Appeal of Conservation Law Foundation**
A stay remains in effect on this appeal pending the results of a Wetlands Council appeal on related issues.
- **Docket No. 03-14 WC - Appeal of Gerald A. Bell**
A stay remains in effect on this appeal pending the results of a Merrimack County Superior Court case on related issues. A trial is scheduled in October 2004.
- **Docket No. 04-05 WC - Freudenberg-NOK General Partnership**
A stay remains in effect on this appeal of an administrative order pending determination of title to the subject property.

4. **Proposed Rules Env-C300 - Laboratory Accreditation**

George "Bill" Hall, Water Supply Engineering Bureau, Environmental Lab Accreditation Program, presented proposed amendments to Env-C 300. The proposed rules changes would transfer the rules from the commissioner's office (Env-C 300) to the Water Supply Engineering Bureau (Env-Ws 500) to limit potential conflicts of interest with the DES laboratory. This program accredits laboratories based on National Environmental Laboratory Accreditation Conference ("NELAC") standards and is expanding to include additional areas of accreditation including Resource Conservation and Recovery Act ("RCRA") testing, radon, and whole effluent toxicity testing. The fee structure will change for those laboratories which are accredited for the new testing methods.

In response to councilors' comments, Mr. Hall stated:

- Depending on the size of a lab, it takes a minimum of 5-6 months for a lab to go through the accreditation process.
- The Water Supply Engineering Bureau does not accept test results from labs that are not accredited although other bureaus may require only that EPA approved methods of testing be used.

Harry Stewart explained there has been some confusion regarding lab fee increases. The rule change for the laboratory accreditation program is for expansion of the program to include the RCRA certification requirements. There is also a bill which was introduced in the legislature this session which proposed increasing laboratory testing fees to bring them up to the level charged by private laboratories. The bill also gives the commissioner discretion to increase lab fees periodically without going back to the legislature to maintain parity with the private sector. Mr. Stewart indicated that this bill was not passed with fee increases and may have been sent to study committee.

A motion was made by Councilor Bradley to approve the proposed changes to Env-C 300. The motion was seconded by Councilor Funk and unanimously voted.

5. Proposed NH Drinking Water Rules

Bernard Lucey, P.E., Water Supply Engineering Bureau, addressed proposed rules changes to Env-Ws 300 and Env-Ws 1120 as set forth in Rene Pelletier's May 28, 2004 memorandum to Water Council Members. Of particular note is a change to Env-Ws 1120 which will allow a child who attends a youth recreation camp to maintain possession of an epinephrine auto-injector and/or an asthma inhaler with written approval of the child's parent/guardian and physician.

Councilor Varotsis made a motion to approve the proposed changes to rules Env-Ws 300 and Env-Ws 1120 as presented. Councilor Butler seconded the motion and it was unanimously voted.

6. Legislative Update

Russ Nylander, P.E., updated the council on recent legislation. Under SB 534, Reorganization of State Government, the Department of Health and Human Services will transfer to DES the Bureau of Environmental and Occupational Health. The Office of Energy and Planning will transfer its Coastal Zone Management Program and the New Hampshire Estuaries Project to DES. Also, the DES commissioner has authority to nominate the Air, Water and Waste Division Directors upon consultation with the respective councils.

7. Other Business

- Harry Stewart advised that the Supreme Court has affirmed the Water Council's decision in the Dixon Appeal.
- Chairman Bridges commended Russ Nylander for his exemplary work on behalf of the council and was joined by other councilors who expressed their appreciation for Russ' leadership and mentoring over the years. Russ will be retiring on June 30, 2004 after 38 years of state service.

8. Next Meeting

The next meeting will be July 14, 2004.

9. Adjournment

The meeting adjourned at approximately 9:30 a.m.

Note: Councilor Phillips arrived after discussion of all matters requiring a vote.